

PROCUREMENT PROTEST POLICY

Prepared by:

Indiana Department of Administration, Procurement Division ("Department")

PURPOSE

To establish a consistent, equitable process for receiving, reviewing and responding to complaints from bidders and respondents involved in state procurement process.

SCOPE

This policy applies to all protests concerning purchases and contracts where the contract solicitation and award was conducted by the Procurement Division of the Indiana Department of Administration. The remedies provided by this policy will only apply to individuals or entities that directly participated in the solicitation process.

DEFINITIONS

"Bidder" is defined as a person or entity that responds to an invitation for bids, pursuant to IC 5-22-7-2.

"Contract award" is defined as the written determination made by the Department of Administration of the lowest responsible and responsive bidder; or the responsible offeror whose proposal is determined in writing to be the most advantageous to the governmental body. The contract award will be deemed made upon the Department of Administration's notification to bidders and offerors pursuant to IC 5-22-7-8 and IC 5-22-9-7.

"Offeror" is defined as a person or entity that responds to a request for proposals, pursuant to IC 5-22-9-2.

GROUND FOR RELIEF

Bid Specifications – Grounds for Relief:

After the request for proposals or invitation for bids is released, but prior to the contract award, a bidder or offeror may submit a written letter of protest regarding bid specifications on the grounds that the bid specifications are:

1. inadequate;
2. unduly restrictive; or
3. ambiguous.

Contract Awards – Grounds for Relief:

After a contract award, a bidder may submit a written letter of protest regarding the procurement process in the following circumstances:

1. The contract award was arbitrary, capricious or an abuse of discretion;
2. Any aspect of the procurement process was conducted contrary to a constitutional, statutory or regulatory provision;
3. The contract award was made without observance of a procedure required by the invitation for bids or request for proposals (RFP).
4. A technical or mathematical mistake or error occurred during the evaluation process;
5. There is reason to believe that the bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.
6. An Offeror was not accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposals.

PROCEDURE

The burden of demonstrating the invalidity of the bid specification or the contract award is on the person asserting the invalidity.

Bid Specification Protests:

The letter of protest must be received by the IDOA not less than five (5) business days prior to the proposal or bid due date.

Contract Award Protests:

The letter of protest must be received by the IDOA not more than five (5) business days after the date of the contract award.

Letters of Protest must state with specificity all grounds for relief. Letters of Protest which do not allege a ground for relief as outlined above, may be summarily rejected by written notification of the Department.

All Letters of Protest should be submitted to

Vendor Complaint/Protest Coordinator
Indiana Department of Administration
Procurement Division, Room W478
402 West Washington Street
Indianapolis, Indiana 46204

The Department will respond in writing to a Letter of Protest in a timely manner.

APPEAL

Within five (5) days of receiving the Department's written response, a bidder or offeror, may submit a request for appeal to the Commissioner or his designee. The request for appeal must be in writing and may not state grounds for relief which were not raised in the original letter of protest.

REVERSE AUCTIONS

If a bid in a reverse auction is rejected on the ground that the bid did not meet specifications, the Department will notify the bidder in writing of the reason for the rejection pursuant to the time frame outlined in the solicitation package.

In such a case the rejected bidder may submit a written Letter of Protest regarding the exclusion from the reverse auction due to not meeting specifications. Such protest must be received by the Department not less than five (5) business days after the notification of the rejection.

The Letter of Protest must indicate the solicitation number. Once received by the Department, the auction will be delayed until a final determination of the protest has been made. All non-rejected bidders will receive a written notice of the change in the reverse auction status.

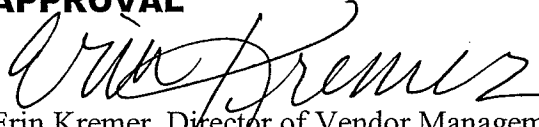
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RELATED STATUTES AND ADMINISTRATIVE RULES

IC 5-22-7	Competitive Bidding
IC 5-22-9	Request for Proposals
IC 5-22-7.5	Online Reverse Auctions
25 IAC 1.1 -1-3	Competitive sealed bids; public inspection
25 IAC 1.1-1-6	Competitive sealed proposals; public inspection

APPROVAL



Erin Kremer, Director of Vendor Management and Supplier Performance
Department of Administration
Procurement Division